SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 123

JONES & LAUGHLIN STEEL CORPORATION,
Petitioner,
v.
GRIDIRON STEEL COMPANY,
Respondent.

On Petition For Writ Of Certiorari To The
United States Court Of Appeals
For The Sixth Circuit

REPLY BRIEF FOR PETITIONER

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June 15, 1965

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

NO. 1146

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Petitioner,

v.

GRIDIRON STEEL COMPANY,
Respondent.

On Petition For Writ Of Certiorari To The
United States Court Of Appeals
For The Sixth Circuit

REPLY BRIEF FOR PETITIONER

—I—

The "Questions Presented" are of substantial public importance and should be answered by this Court.

Whether stated in the terms of petitioner's "Questions Presented" or in terms of respondent's counter-question, it is self-evident that the questions raised herein go to the proper construction and interpretation of rules promulgated by this Court governing civil appeals in all the courts of the United States and hence are of broad and general importance.*

*Contrary to respondent's contention (Br. p. 2) Civil Rule 6(b) has no pertinency to this case. The district court was not asked to extend the time for taking any action under the civil rules, and it did not purport to do so.

Respondent's suggestion, that the decision below is applicable only to judgments entered on Thursdays in the Sixth Circuit, is specious. But even if the suggestion were sound (which petitioner denies), it still remains true that a decision applicable to 20% of the cases in only one judicial circuit has a public importance beyond the interests of the parties here.

The cases cited by respondent do not support its contention that the questions presented are of interest solely to the litigants herein. To the contrary, they show that over the years there has been continuing dispute and confusion over discrepencies between the business hours kept by court clerks and the business hours mandated by the civil rules. The new facet of the problem, raised by the 1963 amendment of the civil rules and the decision below, should be settled by this Court, as like facets have been earlier decided.

—II—

Respondent does not attempt to answer the "Questions Presented" — it begs them.

Respondent bases its opposition on two mutually inconsistent grounds: (1) that 28 U.S.C. § 2107 and Civil Rule 73(a) are "mandatory and jurisdictional" and computation of appeal time is unaffected by Civil Rule 6(a)*; and (2) that the computation of appeal time *is* subject to Civil Rule 6(a) but that each judicial circuit may alter the effect of Rule 6 by a local rule.

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*The contention is contrary to the result reached in *Union National Bank v. Lamb,* (1949) 337 U.S. 38, 40-1.

Respondent's first alternative is in direct conflict with the cases cited at page 7 of the petition. If that contention is the correct one, there is a conflict between the decision below and decisions by the courts of appeals of the Fifth, Ninth and Tenth Circuits. Such a conflict should be resolved by this Court.

Respondent's second alternative would leave the computation of time subject to variation by local rule. Thus each circuit (or district) might establish its own practice for the computation of time. Such a result is believed by petitioner to be contrary to the intended purpose of Civil Rule 1 which provides that the civil rules "govern the procedure * * * in *all* suits of a civil nature" (emphasis supplied). If the civil rules are to have different meaning or application in the various circuits (or districts) that fact should be set forth authoritatively by this Court.

Respectfully submitted,

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